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IN THE

Supreme Court of the United States

October Term, 1969

No. 71

SAMUEL J. ABATE, as a Taxpayer of the County of Rockland, and as a Representative of Others Similarly Situated,

and

JUNE MOLOF, MINDY BAKER, GLORIA ENGLISH, JOYCE BRAZILLER, LINDA BERNS and JUDY BARTOSIK, as Individuals and as Representatives of Others Similarly Situated,

and

CORNELIUS T. O'SULLIVAN, ICHABOD F. SCOTT and MICHAEL J. CLARKE,

Appellants,

against

PAUL F. MUNDT, PHILIP J. ROTELLA, JOHN B. LOVETT, JOHN F. McALEVEY, HAROLD K. GRUNE, constituting the Board of Supervisors of the County of Rockland, THE COUNTY OF ROCKLAND, and CHARLES FURST and MARION DORSEY, as Commissioners of the Board of Elections of the County of Rockland, and THE BOARD OF ELECTIONS OF ROCKLAND COUNTY,

Respondents.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

AMICUS CURIAE BRIEF AND APPENDIX OF THE STATE OF NEW YORK

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IN THE

Supreme Court of the United States

October Term, 1969

No. 1033

SAMUEL J. ABATE, as a Taxpayer of the County of Rockland, and as a Representative of Others Similarly Situated,

and

JUNE MOLOF, MINDY BAKER, GLORIA ENGLISH, JOYCE BRAZILLER, LINDA BERNS and JUDY BARTOSIK, as Individuals and as Representatives of Others Similarly Situated,

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PAUL F. MUNDT, PHILIP J. ROTELLA, JOHN B. LOVETT, JOHN F. McALEVEY, HAROLD K. GRUNE, constituting the Board of Supervisors of the County of Rockland, THE COUNTY OF ROCKLAND, and CHARLES FURST and MARION DORSEY, as Commissioners of the Board of Elections of the County of Rockland, and THE BOARD OF ELECTIONS OF ROCKLAND COUNTY,

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ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

AMICUS CURIAE BRIEF AND APPENDIX OF THE STATE OF NEW YORK

Statement

The State of New York respectfully requests permission to file this brief *Amicus Curiae*.

The interest of the State of New York is in support of its public policy which allows multi-member districting of municipalities, as such public policy is laid down in the

provisions of the New York State Constitution adopted by a new amendment thereto approved by the People of the State in November, 1963, and enunciated in its judicial decisions and spelled out by statute in 1969. The State of New York is interested in obtaining from this Court a delineation and definition of the breadth or confines of acceptable municipal reapportionment requirements and techniques and thus of workable guidelines thereon so that the mass of reapportionment activity which will materialize following the 1970 Federal Decennial Census may be given direction and municipalities in New York State may be able to adopt plans with reasonable assurance that the result will not be the subject of long litigation.

The position of the parties Respondent has been, and logically can be expected to continue to be, the defense of the individual local law passed by them to reapportion the county. The position of the Appellants is a challenge to the State's public policy.

It thus appears that a presentation of the Statewide position by this brief of the State *amicus curiae* is important to the consideration by the Court of the basic issues in this case, and insofar as the State's concern transcends that of the Respondents which is necessarily confined to their single plan.

Constitutional Provision Involved

The Equal Protection Clause contained in the Fourteenth Amendment to the Constitution of the United States

New York State constitutional provisions and statutes which are involved in this review are set forth in the Appendix hereto.

Questions Presented and Answers of the New York Court of Appeals

1. Are multi-member districting plans constitutional? Answered in the affirmative by the New York Court of Appeals.

2. Is the multi-member districting plan here in question Constitutional?

   Answered in the affirmative by the New York Court of Appeals.

3. Is a reasonable deviation from an approximately exact mathematical equality in numbers of constituents of the members of a municipal elective body elected from multi-member districts, when authorized by local law enacted on a basis of constitutionally required, legislatively enunciated and judicially approved state policy constitutional?

   Answered in the affirmative by the New York Court of Appeals.

4. Is an 11.9 per cent variation between the highest and lowest population per legislator, characterized by Chief Judge Fuld in his dissenting opinion in the New York Court of Appeals (Appellants' Appendix Page 47) as "relatively small", an acceptable percentage variation under the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States?

   Answered in the affirmative by the New York Court of Appeals.

5. Has the Board of Supervisors of Rockland County made a goodfaith effort to achieve equality of representation and was there sufficient justification for any variance from absolute equality?

Answered in the affirmative by the New York Court of Appeals.

6. Are the New York State constitutional provisions and the State's statutory declaration of public policy a violation of the Equal Protection Clause?

Although the question was not answered in specific terms by the New York Court of Appeals, impliedly the answer was in the negative.

The Structure of Municipal Governments in the State of New York outside of New York City[1]

In this *amicus curiae* brief of the State of New York, it is felt that it will be helpful to describe some of the aspects of the structure of New York State municipal law, as they bear upon representation, districting and reapportionment: we do so herein.

The municipal units of government in New York State are Counties, Cities, Towns and Villages.

The Rockland County Board of Supervisors—the governing Board of Counties—originally consisted of supervisors, each of whom had been elected as supervisor of his own town and who, by virtue of such election, became a member of the Board of Supervisors. (Rockland County is made up of five towns and hence there were five members on the Board of Supervisors.)

Each supervisor was elected at large in his town of residence. Each was elected as a town supervisor whose duties were to sit upon and preside over the meetings of the town board (which is the local legislative body of a town) and to act as executive and administrative head of

[1] The city of New York encompasses 5 counties and constitutes an unique unit and is excluded from this discussion.

the town government and as treasurer and disbursing officer for town funds.

The election and the powers and duties of supervisors in the town governments are provided for in the New York Town Law.

The legislative bodies of cities are elected from wards or, in a few cases, elected at large and sometimes by a combination of such methods. These officers are called councilmen or aldermen. Cities (of which there are none in Rockland County) by special charters enacted by the State Legislature and which may be amended by the State Legislature or by Local Law passed by the city also are required to elect one or more supervisors to sit on county boards of supervisors, who originally had certain limited city functions, all or most of which subsequently by local, special or general statute have been transferred elsewhere. In some cities supervisors are all elected at large but in most cities they are elected on a ward basis.

Supervisors, whether of a town or a city, are *ex officio* members of the county board of supervisors. A county board of supervisors is made up entirely of *ex officio* members and no others (9a).[2] In Rockland County, the five town supervisors were *ex officio* members of the Board of Supervisors and the Board of Supervisors consisted solely of its five *ex officio* members. This generalization also is subject to some exceptions. However, *Rock-*

[2] References to Appellants' brief, position and arguments are references to the brief, position and arguments of the Appellants June Molof, *et al.*, as that is the only Appellants' brief received by the Attorney General of the State of New York at the time of the preparation of this brief. Reference to the Respondents herein shall be to the "Board of Supervisors" unless otherwise indicated by the context. References to the annexed appendix are (...a), the "..." to be to the particular page or pages.

land County is a typical small-to-medium sized county in New York State (with the exception that it contains no city) and the general rules in effect in New York State apply to it.

There are 62 counties in New York State and 62 cities. New York City encompasses 5 counties and, as has been noted, is unique. Thus, outside of New York City there are 57 counties and 61 cities. Each city lies wholly within and constitutes but a part of just one county. Each town lies wholly within and constitutes but a part of just one county. No part of a city is in any town and no part of a town is in any city. Counties are made up of any cities which lie within their boundaries, and of towns. All of the State of New York, except for a few enclaves such as ceded territory of the West Point Reservation, consists of counties which in turn consist of cities and towns.

Villages are of a different nature. There are 554 villages in the State of New York. A village may be in one or more towns and counties. 62 villages lie in two towns, and 7 of these villages also lie in two counties. 2 villages lie in 3 towns.

City populations in New York State have representatives on the governing board of the county containing them, and the town populations have representation. Villages, as such, do not, because the populations of the villages receive county representation through the representative of the town in which they live. The village is not a representation unit in county government.

The county board of supervisors is, as has been noted, the local legislative body of the county (2a, 9a, 10a).

History of the adoption of the representation plan under attack

The present Rockland County system of representation was adopted under the authority and pursuant to the requirements of a court decree. The Board of Supervisors was directed by judgment of a court to reapportion the county [*Lodico* v. *Board of Supervisors of Rockland County* [1966], 256 F. Supp. 442].[3] After several attempts to comply with the judgment, which were rejected by the voters at the general election in November, 19[illegible] at a special election in April, 1967, the plan here chall[illegible] was passed by the Board of Supervisors, ~~and was approved by the people of the county at the general election held in November, 1969.~~ This plan with a modification not relevant to this review had been found valid by the New York Supreme Court at Special Term on July 21 and amended July 30, 1969, not officially reported (Appellants' Appendix Pages 10 and 19); the decision was affirmed by the Appellate Division of the Supreme Court, Second Judicial Department, on August 26, 1969, without opinion and with one dissent 33 A.D. 2d 660; ~~the people approved it at a referendum held with the general election in 1969~~; and shortly thereafter, on November 12, the New York Court of Appeals affirmed the determinations of the lower courts 25 N. Y. 2d 309 with a dissent by Chief Judge Fuld, in which Judge Jason joined. The Appellants seek to invalidate this plan.

Chapter 834 of the Laws of 1969 of the State of New York amended the New York State Municipal Home Rule Law by adding a sub-paragraph numbered 13 to paragraph (a) of subdivision 1 of section 10 (16a). The Local Law

[3] It was not done under the authority of Chapter 834 of the Laws of 1969 of the State. This law is discussed *post*.

providing for the system here being challenged referred to the amended State statute. Such reference appears to have been made only for the purpose of pointing out the public policy of the State in relation to municipal reapportionment which allows multi-member districting. The State statute was not necessary to accomplish the reapportionment by Rockland County because it was directed by the Courts. All of the judicially mandated reapportionments of municipalities in New York State were accomplished without statutory authority, it having been implicit that the statutory void was filled by the judgment of the Court.

Summary of Argument

The Constitution and statutes of the State of New York require that representation of the residents in municipalities must be based upon population. They also authorize multi-member districting in municipalities to achieve this end so long as population is used as a criterion in the decision.

The use of multiple-member districts of unequal population has been held by the courts to be a proper tool to use to obtain equal representation of the people of the several districts.

Maintaining town boundaries in creating representation districts is encouraged by the statutes of the State of New York if districting can be accomplished thereby and still provide equal representation to the residents. The Rockland County Board of Supervisors thus had the choice of using multi-member districts, single-member districts of unequal population with its representatives using a weighted vote, or single-member districts from newly created areas of generally equal population. New York

State policy allows the choice by the municipality and the method chosen need not be justified and it need not be shown that neither of the other methods can produce equality of representation.

The "one-man, one-vote" cases have involved at least three levels of legislative reapportionment and, in dealing with each of these levels, there are quite properly taken into account and weighed in the balance different considerations both as to the permissible variations from strict equality and as to the justification for variations from such strict equality.

A weighted voting plan and single-member districting from areas of generally equal populations in counties in New York State, to be acceptable, must provide for only close variations from equality. Multi-member districting plans in counties in New York State, which retain town and city lines to delineate the representation districts, can not be devised to afford quite such precision. However, so long as the system selected by the legislative body to redistrict the county provides satisfactory adherence to the requirement of equal representation, within the genre for achieving equality which has been selected, and in the particular county, the plan should be approved.

The history of rejection by the sophisticated electorate of Rockland County of other reapportionment plans, one of them almost identical to the one urged by the Appellants, devastates the claim of the Appellants that the Board of Supervisors acted in bad faith in adopting the present plan, and the prediction of the Appellants as to a 1980 imbalance in representation is indicated as being a misjudgment from the very facts quoted by the Appellants. No factual basis exists for the conclusion.

All districting plans, whether single or multi-member, or a plan for use of weighted voting, must have static boundaries between re-districtings and the populations of each district will change during this time. *All* possible districting plans would be faulty if the argument of the Appellants based on static boundary lines and variable populations applies.

POINT I

Multi-member district plans are not violative of the Constitution of the United States. The Board of Supervisors had the right to adopt a multi-member district plan and the plan was adopted in good faith.

A

This Court and the New York Court of Appeals have held that multi-member district plans are permissible tools for use to reapportion a municipal representative legislative body to bring it within the ambit of the "one man—one vote" concept. *Fortson* v. *Dorsey* [1965] 379 U. S. 433; *Burnett* v. *Davis* [1965] 382 U. S. 42, affirming 245 F. Supp. 241; *Burns* v. *Richardson* [1966] 384 U. S. 73; and see *Swann* v. *Adams* [1967] 385 U. S. 440. Also, *Michl* v. *Shanklin* [1966] 17 N. Y. 2d 906.

In reliance upon the statements of this Court to the effect that recognition of traditional boundaries is acceptable and that experimentation in the field of government is not abhorrent to the "one man—one vote" rule, the New York Legislature passed and the Governor approved a bill which became Chapter 834 of the Laws of 1969 which added a subparagraph 13 to paragraph (a) of subdivision 1 of Section 10 of the Municipal Home Rule Law (16a). This statute (in clause a, part i) provides that any plan of re-

apportionment of a municipality must provide substantially equal representation for all the voters of that local government; part ii provides that in such plan adopted by a county no town shall be divided in the formation of representation areas if it is possible to avoid division; part iii provides for substantially fair and effective representation of the population. Clause c of the statute defines population to mean residents, citizens or registered voters and requires that a population base for a plan of apportionment shall utilize the latest statistical information available from an official enumeration and that a plan may allocate, by extrapolation or any other *rational* method, such latest statistical information *if properly explained* (18a). This statute authorizes multi-member districts, and, consequently, Rockland County, rightfully relying upon the pronouncements in the field by this Court and the New York Court of Appeals and in reliance upon the declared public policy of the State of New York in its 1969 statute, was entitled to adopt a multi-member districting plan if its legislative body in its wisdom determined that such a plan best met the needs of the county and of the people within it.

It is implied in the brief for Appellants *June Molof, et al.*, that the adoption of this plan by the Board of Supervisors constituted a perverse determination by that Board to have its own way in spite of an overwhelming opinion within the county that the plan was undesirable. The facts belie the implication. The brief itself contains its own refutation. Almost the same plan urged by the Appellants had been adopted once by the Board of Supervisors and rejected by the electors, as had other plans. ~~It certainly~~ is evident that the electors of the ~~county~~ were not about to approve ~~any plan~~ which they did not like just because ~~it had been passed by the Board of Supervisors. The fact~~

~~is, this very sophisticated electorate *did* approve the plan here sought to be invalidated.~~ It would appear, then, that the assertion of these Appellants in their brief as to the reason their plan was defeated does not even constitute a fair inference. It also appears that their typification of overwhelming support for their plan within the county is exaggerated. Conversely, a reasonable conclusion may be drawn that the petitioners with their plan only constitute a vocal and organized minority of the population who wish to impress their will upon the majority. Of course, the will of the majority, if it be a will to be unconstitutionally governed, cannot prevail over the right of the minority to a constitutional form of government (*Lucas* v. *Forty-fourth General Assembly of Colorado* [1964] 377 U. S. 713).

It would seem, however, that here an organized minority is attempting to supersede the judgment of the elected governing body of the community. Even if it be assumed that the Appellants' plan is better than the plan they attack, this has no relevancy as to whether or not the multi-member plan which was adopted is constitutional. Neither does it bear relevancy to the question of good faith of the Board of Supervisors or of the Appellants. The Appellants brief is replete with phrases claiming a lack of "good faith effort to achieve precise mathematical equality" and the complaint is made that there is not precise mathematical equality in the plan. Aside from the point that precise mathematical equality has not only never been required by this court but has specifically been stated to be beyond reasonable anticipation, it would seem that the suppliants, objecting to a failure to achieve precise mathematical equality and trying to interject a substitute plan, should be able to come forward with a plan closer to true parity than one with a 3.5% deviation from precise mathematical equality.

particularly when relying for their whole argument upon *Wells* v. *Rockefeller* [1969] 394 U. S. 535 and *Kirkpatrick* v. *Pressler* [1969] 394 U. S. 526. We suggest that the Appellants are warping *Wells* and *Kirkpatrick* to justify an argument in favor of a particular plan which was a plan no longer acceptable to the legislative body after the electorate of the county rejected it at a referendum, or that at the very least the Board of Supervisors was realistic enough not to try to re-pass the defeated plan and resubmit it at a referendum.

Actually the Board of Supervisors here adopted the only possible plan. It would have been futile to adopt the plan of the Appellants which the electorate had rejected.

There is no basis shown in the record for the Appellants' contention of bad faith, or at least a lack of good faith, on the part of the Board of Supervisors. On the contrary, the record indicates that the Board of Supervisors, in refusing to enact the Appellants' plan, did so only after the Appellants' plan was rejected by the electorate and it was demonstrated that although it has some merit it was unacceptable to the people. Did the Appellants' plan have merit this does not preclude the use of any plan if it, also, has merit. The relative merits between plans are not matters which are subject to court interference.

~~It also follows that the Board of Supervisors showed~~ good judgment and displayed good faith by ~~passing~~ a local law which the electorate ~~approved; an~~ electorate which previously, on two ~~occasions~~, had displayed its discrimination by ~~defeating~~ reapportionment plans not acceptable ~~to it.~~

Statements, such as on Page 8 of the Appellants' brief, that a member of the reapportionment commission resigned

in protest against the majority report and declared that political pressures had been brought to bear are not particularly indicative of anything. Reapportionment—realistically—involves a hope of obtaining political advantage or the satisfaction of realizing the philosophy of one person or group or for some other similar reason, not one of which reasons are inherently bad. Certainly, a disagreement between people or groups of people as to a system to be adopted to supplant a traditional method of government can be expected to produce disagreement, but the real fact of disagreement is no indication of bad faith.

An examination of the record *dehors* conclusory allegations indicates that the Board of Supervisors, after having been directed by the court to reapportion the county, has spent substantial time and effort to do so and has not been adamant in following its own preference but has in succession adopted several plans, all substantially different from one another. This would indicate that the Board of Supervisors has taken a fair-minded approach and has attempted to accomplish its work properly.

As to whether the particular plan adopted does or does not meet the requirements of the "one man—one vote" rule is a matter for the Board of Supervisors to argue. Their right and authority to adopt a multi-member districting plan is a matter in which the State of New York is vitally concerned.

B

The objection of the Appellants to multi-member districts (Point III of their brief) does not withstand scrutiny. Point III announces that a multi-member district plan is unconstitutional "if its district lines are static but its population is subject to change". It can be said with equal lack

of authority that a single member district plan is unconstitutional if its district lines are static but its population is subject to change. Each assertion is equally fallacious. The statement applies to any districting plan. The district lines *must* be static between reapportionments—and the population of any district will not remain the same.

The alternative would be to provide for fluid boundary lines in each district, each of which would have to be adjusted every two or four years before election of officers; in the case of Rockland County, every four years. To accomplish the mechanics of such a constant adjustment is inconceivable, and every adjustment would be subject to litigation.

The elective process in the State of New York commences about April 1st of each year (44a), the time when candidates for nomination to run for public office begin circulating nominating petitions. Within the four-month period between the time of receipt of the 1970 census figures to the time when nominating petitions may be circulated in 1971, reapportionments will have to be prepared by most municipal governments in New York State if litigations to compel them to do so are to be avoided and so that candidates and the electorate can commence the political process. The adjustment would have to be completed no later than about April 1st of the year in which candidates would run for office, an office they would assume on the following January 1st. The population figures to be used for making the boundary adjustments would have to be available in time to allow proper study and the enactment of reapportionment legislation. A conservative estimate as to the latest time at which the population figures would have to be made for this process would be about January 1st of the year of the election. Thus, in fluid boundary dis-

tricts, the figures used as a base for representation would be one year old when the representatives take office and would be outmoded one year after they took office.

The population percentages quoted in Point III of the Appellants' brief prove a conclusion contrary to the one they assert. It is stated that the populations of the districts have changed and that an anticipated continuation of the change establishes invalidity of the present plan. These figures actually show that if this multi-member district plan had been in effect in 1963, there would have been a 27% population variance; if it had been in effect in 1966, there would have been a reduction to a 26% variance; and that there is now a further reduction, in 1969, to 11.9%. The only logical conclusion which can be reached from this series of figures is that the discrepancy in population in these districts of the county is narrowing, not, as the brief asserts, that it is widening. The brief then goes on to quote figures alleged to have been supplied by the local county planning board. The figures do not appear in the record of the case and nowhere is there any explanation as to how they were obtained. They are used to try to show that in 1980 the discrepancy under this plan will be 52%. Any extrapolation, at best, is gossamer and to have any validity must be prepared by experts, supported by facts and figures, trends, experience, and computation and when the result of unexplained extrapolation, projected for a period 10 years hence, reveals a figure belied by precise experience figures of the last 7 years, the predicted result should be accepted by a court only after hearing expert testimony subjected to the most searching cross examination. Here, so far as the record is concerned, the present disparity in representation is apparently narrowing and any contrary claim is rashly conjectural. And, of course, if the same argument used in the Appellants' Point III is

applied to the plan they espouse, the same speculation related to the unproven extrapolation leads to the conclusion that if there were at present a plan providing for single member districts, even of precisely equal population, those districts also would be invalid by the year 1980.

The Appellants' brief also contains the conclusory statement, not supported by any portion of the record, that the Appellants' plan was defeated because it contained no provision for a transitional period.

Without a record, no assertion as to why Plan S was rejected has any validity except the conclusion that the electors disapproved the plan. Lack of a transitional period may or may not have been used as argument in the hurly-burly of a close, local political referendum but there is no way to test the minds of the electors.

All that can be required of a districting plan is that it provide substantial equality of representation for all of the people affected by the plan at the time of its enactment. Then, as the balance of population changes, readjustment will be necessary. It reasonably can be presumed that reapportionment will be required after each decennial census and it is reasonable to decline to require it more frequently in the absence of compelling reasons to the contrary.

POINT II

Municipalities cannot be held to the punctilious attention to percentage deviations which are required of the larger governmental units.

As stated by the New York Court of Appeals in its majority opinion in this case, 25 N. Y. 2d 309, "the 'one man, one

vote' cases have involved at least three levels of legislative reapportionment and that, in dealing with each of these levels, there are quite properly taken into account and weighed in the balance, different considerations both as to the permissible variations from strict equality and as to the justification for variations from such strict equality".

Except in unusual circumstances it can be generalized that: (a) in single member districts of unequal populations if weighted voting is used to achieve equal representation through adjustment of voting weights of the representatives,[4] and in single member districts of reasonably equal populations, with each representative having one vote, only narrow percentages of variation in representation can be allowed in order to satisfy the requirement of equal representation except in unique cases; (b) in multi-member districts using historic subdivisions or natural boundaries a further latitude must of necessity apply. If the latter is not the case it would appear that the approval of multi-member districts by this court must now be reversed.

The population of the State of New York, according to the 1960 federal decennial census, is 16,782,304 persons (45a, 46a). There are 41 congressional districts, 57 State

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[4] A scholarly and extremely accurate article: "An Analysis of Weighted Voting as Used in Reapportionment of County Governments in New York State", by Ronald E. Johnson, published in Volume 34 Albany Law Review Number 1, Fall 1969, at page 1, uses as a point of departure Banzhof, "Weighted Voting Doesn't Work: A Mathematical Analysis", 19 Rutgers Law Review 317, at the point which the New York Court of Appeals approved of the concept of weighted voting in *Iannucci* v. *Washington County* [1967] 20 N. Y. 2d 244, then clearly explains what weighted voting is and how it works, and demonstrates its application in several counties in the State of New York, at the same time pointing out some pit-falls which may result in some representative areas through its use.

senatorial districts and 150 State assembly districts in the State. The mean population per congressional district is 409,324. A small percentage variation from that mean is a tremendous number of people. One percent of the mean is almost the population of one whole New York State county, Hamilton County, which in the 1960 census had a population of 4,267 persons (44a). Major population shifts can be arranged from one congressional district to another just by picking up a boundary line of a Congressional district and moving it so as to include in it one or more additional election districts. These election districts are mapped, geographically defined and easily recognized (40a). Under the New York Election Law (38a) election districts may contain no more than 900 voters. Relatively small percentage variations in populations between these large districts can be managed because such changes constitute great numbers of people. An average size election district would be somewhat less than 900 registered voters multiplied by the times the number of registered voters divides into the total population of the area, roughly by two.

However, when going another step below these State districts and into the municipal level, a very different problem arises and the mechanics of equalizing districts, become, in some instances, insurmountable. The 57 upstate counties of New York State range in population from Hamilton County, having a population of 4,267, to Nassau County, with a population of 1,300,171 persons. Again, Nassau County, as well as Erie County with 1,064,688 persons or Westchester County with 808,891 persons and the other larger counties, do not pose quite the severe mechanical problems of redistricting which are encountered in the small and medium size counties. As an extreme example, let us examine Hamilton County, population 4,267

(44a) and the peculiar problems which exist there. Hamilton County contains 1,090,356 acres or roughly 1,703.7 square miles of area. It is much greater in area than the whole State of Rhode Island which has an area of 1,214 square miles and a 1960 population of 859,488 persons. The State of Rhode Island has a population density of just under 708 people per square mile and just over 1 person per acre. An acre of ground is a building lot slightly larger than 200 feet by 207 feet. Hamilton County, on the other hand, has a population of roughly 2.5 persons per square mile or 1 person per 255 acres. Even more interesting than this is the town populations. There are 9 towns in Hamilton County (44a). The Town of Morehouse consists of 65 people. A shift in counting one of those 65 persons in or out of the Town of Morehouse represents roughly 1.3% of its whole population. The average population per supervisor in Hamilton County is 470 persons. The transfer of just one family unit of average size from one representation area to another, if the county were once divided into nine equally numbered districts, would represent a 1% change in the population of each of two districts. The Town of Arietta in Hamilton County has a population of 235 persons (44a). It is bounded on the east by parts of the Towns of Indian Lake, Lake Pleasant, Wells and Bensen. This eastern boundary is over 50 miles long. The official Highway Department map of Hamilton County shows that the town is crossed by New York Highway No. 8 about 12 miles north of its southern boundary and at the northern end of the town it is crossed by New York Highway No. 365. In all of the rest of that town line the official highway map shows only two pack trails or jeep roads, no county highways or town roads. This is a rather typical boundary line of the towns in that county although it is the longest single boundary line of any of the towns

except for its own west boundary which, because of uneven shape, is difficult to measure. With boundary lines of towns such as that described, it is mechanically impossible to devise representation districts containing substantially equal numbers of people without doing violence to the people themselves by causing them to travel unwarranted distances around mountain ranges and across lakes to vote for candidates with whom they are not acquainted and with whom they have nothing in common. The burden of campaigning poses a similar problem for candidates. A further mechanical problem arises because in small towns the whole town is a single census enumeration district and there is no acceptable manner of subdividing such a district except through an informal head count which has been declared unacceptable (*Seaman* v. *Fedourich* [1965] 16 N. Y. 2d 94). A further consideration also applies to the small counties and that is that the bulk of even the sparse populations is concentrated in hamlets or resort communities.

Hamilton County in New York State is a trackless wilderness and cannot even be termed rural. Perhaps a better way to typify it would be to call it sylvan. This county is not typical in New York State but its huge size and sparse population is typical of substantial portions of several counties in the State and of many counties throughout the nation, all of which will be affected by the decision in this case. The decision in this case should be made only after consideration of all of the people to be affected by it throughout the whole nation.

It cannot be said that Hamilton County is generally similar to Rockland County, around which this case revolves, but the problems pointed out in respect of Hamilton County are present in a medium-sized county such as

Rockland, even though to a lesser degree. Rockland County is mountainous. There are areas with few roads and poor access. There are heavily populated portions and highly urbanized areas. The urbanized areas and the areas of reasonably heavy population can be balanced population-wise with relative ease, but the more sparsely populated sections of the county cannot be.

A local legislative body in New York State has the option to adopt any plan of reapportionment which affords constitutional representation for its constituents and need not justify its reasons for selecting one rather than another (4a, 5a, 16a, 19a, 27a). The test applied is not whether the plan is better than alternative plans, it is whether the plan adopted does or does not afford equal protection of the law. The plan has to meet the test as applied to other plans of the same genre and as applied to the particular subdivision.

While except in unusual circumstances, an 11.9% variation between districts in their representation is unacceptable in a weighted voting plan and in a plan for single member districts of approximately equal population, here, however, we are dealing with a multi-member district plan and the test is different. The test is whether this particular multi-member district plan in this particular county affords satisfactory compliance with the equal protection principle.

Only a realistic approach with an acknowledgment of the almost insurmountable problems which are met in districting areas of relatively small population can be used and this must compel the conclusion that a somewhat less stringent rule is applied to municipalities than to larger segments of government. A good faith effort must be made to achieve a fair and realistic representation balance, but

the percentage variations will inevitably be greater in small than in more populous districts.

It is entirely reasonable for a county board to reapportion the county through the use of multi-member districting, having the districts follow the traditional subdivisions of the county, in this case, the town lines. It is, of course, imperative that such a plan must accord generally equal representation for the people. If generally equal representation is not provided by such a plan, then it is faulty to begin with and population has not been used properly as the primary basis upon which to reapportion. If such a plan does provide generally equal representation then it is established that population has been the basic consideration governing the reapportionment. The dissent in the New York Court of Appeals which would have invalidated the plan here attacked typified the variation as only "relatively small" (Appellants' Appendix p. 47).

It would be a coincidence if exact multiples of population would ever result when creating multi-member districts for selection of representatives. This Court must have realized this when deciding (*Fortson* v. *Dorsey* [1965] 379 U. S. 433; *Burnett* v. *Davis* [1965] 382 U. S. 42, affirming 245 F. Supp. 241; *Burns* v. *Richardson* [1966] 384 U. S. 73; and see, *Swann* v. *Adams* [1967] 385 U. S. 440.

The State of New York is concerned that its municipalities continue to have freedom of choice, under their home rule power, to adopt any apportionment plan which does meet, within that municipality, the standards of equal protection of the law.

CONCLUSION

The districting plan of the respondents which uses multi-member districting to achieve equal representation for the residents of Rockland County should be upheld.

Dated: June 8, 1970.

Respectfully submitted,

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New York State Constitution

ARTICLE I

Bill of Rights

[*Rights, privileges and franchise secured; power of legislature to dispense with primary elections in certain cases.*] Section 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers, except that the legislature may provide that there shall be no primary election held to nominate candidates for public office or to elect persons to party positions for any political party or parties in any unit of representation of the state from which such candidates or persons are nominated or elected whenever there is no contest or contests for such nominations or election as may be prescribed by general law. (Amended by vote of the people November 3, 1959.)

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[*Equal protection of law; discrimination in civil rights prohibited.*] § 11. No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

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New York State Constitution.

*ARTICLE IX

Local Governments

Bill of rights for local governments.

Section 1. Effective local self-government and intergovernmental cooperation are purposes of the people of the state. In furtherance thereof, local governments shall have the following rights, powers, privileges and immunities in addition to those granted by other provisions of this constitution:

(a) Every local government, except a county wholly included within a city, shall have a legislative body elective by the people thereof. Every local government shall have power to adopt local laws as provided by this article.

(b) All officers of every local government whose election or appointment is not provided for by this constitution shall be elected by the people of the local government, or of some division thereof, or appointed by such officers of the local government as may be provided by law.

(c) Local governments shall have power to agree, as authorized by act of the legislature, with the federal government, a state or one or more other governments within or without the state, to provide cooperatively, jointly or by contract any facility, service, activity or undertaking which each participating local government has the power

* New article adopted by amendment approved by the vote of the people November 5, 1963. Former Article IX repealed, except for sections, 5, 6 and 8 which were renumbered subdivisions (a), (b) and (c) respectively of new section 13 of Article XIII.

to provide separately. Each such local government shall have power to apportion its share of the cost thereof upon such portion of its area as may be authorized by act of the legislature.

(d) No local government or any part of the territory thereof shall be annexed to another until the people, if any, of the territory proposed to be annexed shall have consented thereto by majority vote on a referendum and until the governing board of each local government, the area of which is affected, shall have consented thereto upon the basis of a determination that the annexation is in the over-all public interest. The consent of the governing board of a county shall be required only where a boundary of the county is affected. On or before July first, nineteen hundred sixty-four, the legislature shall provide, where such consent of a governing board is not granted, for adjudication and determination, on the law and the facts, in a proceeding initiated in the supreme court, of the issue of whether the annexation is in the over-all public interest.

(e) Local governments shall have power to take by eminent domain private property within their boundaries for public use together with excess land or property but no more than is sufficient to provide for appropriate disposition or use of land or property which abuts on that necessary for such public use, and to sell or lease that not devoted to such use. The legislature may authorize and regulate the exercise of the power of eminent domain and excess condemnation by a local government outside its boundaries.

(f) No local government shall be prohibited by the legislature (1) from making a fair return on the value

of the property used and useful in its operation of a gas, electric or water public utility service, over and above costs of operation and maintenance and necessary and proper reserves, in addition to an amount equivalent to taxes which such service, if privately owned, would pay to such local government, or (2) from using such profits for payment of refunds to consumers or for any other lawful purpose.

(g) A local government shall have power to apportion its cost of a governmental service or function upon any portion of its area, as authorized by act of the legislature.

(h) (1) Counties, other than those wholly included within a city, shall be empowered by general law, or by special law enacted upon county request pursuant to section two of this article, to adopt, amend or repeal alternative forms of county government provided by the legislature or to prepare, adopt, amend or repeal alternative forms of their own. Any such form of government or any amendment thereof, by act of the legislature or by local law, may transfer one or more functions or duties of the county or of the cities, towns, villages, districts or other units of government wholly contained in such county to each other or when authorized by the legislature to the state, or may abolish one or more offices, departments, agencies or units of government provided, however, that no such form or amendment, except as provided in paragraph (2) of this subdivision, shall become effective unless approved on a referendum by a majority of the votes cast thereon in the area of the county outside of cities, and in the cities of the county, if any, considered as one unit. Where an alternative form of county government or any amendment

thereof, by act of the legislature or by local law, provides for the transfer of any function or duty to or from any village or the abolition of any office, department, agency or unit of government of a village wholly contained in such county, such form or amendment shall not become effective unless it shall also be approved on the referendum by a majority of the votes cast thereon in all the villages so affected considered as one unit.

(2) After the adoption of an alternative form of county government by a county, any amendment thereof by act of the legislature or by local law which abolishes or creates an elective county office, changes the voting or veto power of or the method of removing an elective county officer during his term of office, abolishes, curtails or transfers to another county officer or agency any power of an elective county officer or changes the form or composition of the county legislative body shall be subject to a permissive referendum as provided by the legislature.

POWERS AND DUTIES OF LEGISLATURE; HOME RULE POWERS OF LOCAL GOVERNMENTS; STATUTE OF LOCAL GOVERNMENTS.

§ 2. (a) The legislature shall provide for the creation and organization of local governments in such manner as shall secure to them the rights, powers, privileges and immunities granted to them by this constitution.

(b) Subject to the bill of rights of local governments and other applicable provisions of this constitution, the legislature:

(1) Shall enact, and may from time to time amend, a statute of local governments granting to local govern-

ments powers including but not limited to those of local legislation and administration in addition to the powers vested in them by this article. A power granted in such statute may be repealed, diminished, impaired or suspended only by enactment of a statute by the legislature with the approval of the governor at its regular session in one calendar year and the re-enactment and approval of such statute in the following calendar year.

(2) Shall have the power to act in relation to the property, affairs or government of any local government only by general law, or by special law only (a) on request of two-thirds of the total membership of its legislative body or on request of its chief executive officer concurred in by a majority of such membership, or (b) except in the case of the city of New York, on certificate of necessity from the governor reciting facts which in his judgment constitute an emergency requiring enactment of such law and, in such latter case, with the concurrence of two-thirds of the members elected to each house of the legislature.

(3) Shall have the power to confer on local governments powers not relating to their property, affairs or government including but not limited to those of local legislation and administration, in addition to those otherwise granted by or pursuant to this article, and to withdraw or restrict such additional powers.

(c) In addition to powers granted in the statute of local governments or any other law, (i) every local government shall have power to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to its property, affairs or government and, (ii) every local government shall have power

to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to the following subjects, whether or not they relate to the property, affairs or government of such local government, except to the extent that the legislature shall restrict the adoption of such a local law relating to other than the property, affairs or government of such local government:

(1) The powers, duties, qualifications, number, mode of selection and removal, terms of office, compensation, hours of work, protection, welfare and safety of its officers and employees, except that cities and towns shall not have such power with respect to members of the legislative body of the county in their capacities as county officers.

(2) In the case of a city, town or village, the membership and composition of its legislative body.

(3) The transaction of its business.

(4) The incurring of its obligations, except that local laws relating to financing by the issuance of evidences of indebtedness by such local government shall be consistent with laws enacted by the legislature.

(5) The presentation, ascertainment and discharge of claims against it.

(6) The acquisition, care, management and use of its highway, roads, streets, avenues and property.

(7) The acquisition of its transit facilities and the ownership and operation thereof.

(8) The levy, collection and administration of local taxes authorized by the legislature and of assessments for

local improvements, consistent with laws enacted by the legislature.

(9) The wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or sub-contractor performing work, labor or services for it.

(10) The government, protection, order, conduct, safety, health and well-being of persons or property therein.

(d) Except in the case of a transfer of functions under an alternative form of county government, a local government shall not have power to adopt local laws which impair the powers of any other local government.

(e) The rights and powers of local governments specified in this section insofar as applicable to any county within the city of New York shall be vested in such city.

EXISTING LAWS TO REMAIN APPLICABLE; CONSTRUCTION; DEFINITIONS.

§ 3. (a) Except as expressly provided, nothing in this article shall restrict or impair any power of the legislature in relation to:

(1) The maintenance, support or administration of the public school system, as required or provided by article XI of this constitution, or any retirement system pertaining to such public school system.

(2) The courts as required or provided by article VI of this constitution, and

(3) Matters other than the property, affairs or government of a local government.

New York State County Law.

(b) The provisions of this article shall not affect any existing valid provisions of acts of the legislature or of local legislation and such provisions shall continue in force until repealed, amended, modified or superseded in accordance with the provisions of this constitution.

(c) Rights, powers, privileges and immunities granted to local governments by this article shall be liberally construed.

(d) Whenever used in this article the following terms shall mean or include:

(1) "General law." A law which in terms and in effect applies alike to all counties, all counties other than those wholly included within a city, all cities, all towns or all villages.

(2) "Local government." A county, city, town or village.

(3) "People." Persons entitled to vote as provided in section one of article two of this constitution.

(4) "Special law." A law which in terms and in effect applies to one or more, but not all, counties, counties other than those wholly included within a city, cities, towns or villages.

New York State County Law

§ 150. BOARD OF SUPERVISORS CONSTITUTED

The supervisors of the several cities and town in each county, when lawfully convened, shall constitute the board of supervisors of the county.

New York State County Law.

§ 150-a. COUNTY LEGISLATIVE BODY, OTHER THAN BOARD OF SUPERVISORS

1. All the functions, powers, obligations and duties which by law are possessed by or vested in the board of supervisors of a county may be exercised by an elected county legislative body, by whatsoever name designated, which shall, pursuant to law, or order or judgment of a court of competent jurisdiction, be established in place of the board of supervisors of such county. All acts heretofore performed by such elected county legislative body shall be valid if and to the extent that they would have been valid if performed by the board of supervisors of such county.

2. Whenever the board of supervisors of a county is referred to or designated in any law, contract or document pertaining to any of the functions, powers, obligations and duties of such board, such reference or designation shall be deemed to include the elected county legislative body, by whatsoever name designated which, pursuant to law, or order or judgement of a court of competent jurisdiction, shall have been established in place of the board of supervisors.

Added L.1968, c. 1070, § 1, eff. June 22, 1968.

§ 153. RULES OF PROCEDURE

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4. Whenever in this chapter or other general, special or local law, the board of supervisors is authorized or required to act, and no proportion of the voting strength for

such action is otherwise prescribed, such action shall be taken by the affirmative vote of a majority of the total membership of the board. A roll call shall be taken and entered by the clerk in the minutes of its proceedings when required by law or upon request of any member of the board.

New York State Municipal Home Rule Law

ARTICLE 1—SHORT TITLE; DEFINITIONS

Sec.

1. Short title.

2. Definitions.

§ 1. SHORT TITLE

This chapter shall be known, cited and referred to as the "municipal home rule law."

§ 2. DEFINITIONS

As used in this chapter the following terms shall mean or include:

1. "Charter." A state statute or a local law which establishes or continues a specific county, city or village as a municipal corporation or body politic and includes the

fundamental provisions defining, extending or limiting its corporate powers or affecting the framework of its government.

2. "Charter amendment." A new charter or any change in an existing charter presented as such under authority of this chapter or any state statute or charter. A charter amendment may be of any extent and may deal with any number of subjects.

3. "Clerk." The clerk of the board of supervisors of a county, the clerk of a city, town or village or, if there be no officer so designated, an officer exercising corresponding duties.

4. "Elective chief executive officer." The chief executive officer of a county elected on a county-wide basis or if there be none the chairman of the board of supervisors, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. "General law." A state statute which in terms and in effect applies alike to all counties, all counties other than those wholly included within a city, all cities, all towns or all villages.

6. "Law." A state statute, charter or local law.

7. "Legislative body." The board of supervisors, board of aldermen, common council, council, commission, town board, board of trustees or other elective governing board or body now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local

laws or ordinances, whether or not such local laws or ordinances require the approval of the elective chief executive officer or other official or body to become effective.

8. "Local government." A county, city, town or village.

9. "Local law." A law (a) adopted pursuant to this chapter or to other authorization of a state statute or charter by the legislative body of a local government, or (b) proposed by a charter commission or by petition, and ratified by popular vote, as provided in article four of this chapter or as provided in a state statute, charter or local law; but shall not mean or include an ordinance, resolution or other similar act of the legislative body or of any other board or body.

10. "New charter." A charter which supersedes or repeals an existing charter in its entirety or in the manner provided in subdivision four or subdivision five of section thirty-six of this chapter.

11. "Public corporation." A municipal corporation, a district corporation or a public benefit corporation as defined in section three of the general corporation law.

12. "Special law." A state statute which in terms and in effect applies to one or more, but not all, counties, counties other than those wholly included within a city, cities, towns or villages. As amended L. 1964, c. 78, § 1, eff. March 2, 1964, retroactive to Jan. 1, 1964.

New York State Municipal Home Rule Law.

ARTICLE 2—GENERAL POWERS OF LOCAL GOVERNMENTS TO ADOPT AND AMEND LOCAL LAWS; RESTRICTIONS

Sec.

10. General powers of local governments to adopt and amend local laws.

11. Restrictions on the adoption of local laws.

§ 10. General powers of local governments to adopt and amend local laws

1. In addition to powers granted in the constitution, the statute of local governments or in any other law,

(i) every local government shall have power to adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law relating to its property, affairs or government and,

(ii) every local government, as provided in this chapter, shall have power to adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law, relating to the following subjects, whether or not they relate to the property, affairs or government of such local government, except to the extent that the legislature shall restrict the adoption of such a local law relating to other than the property, affairs or government of such local government:

a. A county, city, town or village:

(1) The powers, duties, qualifications, number, mode of selection and removal, terms of office, compensation, hours

of work, protection, welfare and safety of its officers and employees, except that cities and towns shall not have such power with respect to members of the legislative body of the county in their capacities as county officers. This provision shall include but not be limited to the creation or discontinuance of departments of its government and the prescription or modification of their powers and duties.

(2) In the case of a city, town or village, the membership and composition of its legislative body.

(3) The transaction of its business.

(4) The incurring of its obligations, except that local laws relating to financing by the issuance of evidences of indebtedness by such local government shall be consistent with laws enacted by the legislature.

(5) The presentation, ascertainment, disposition and discharge of claims against it.

(6) The acquisition, care, management and use of its highways, roads, streets, avenues and property.

(7) The acquisition of its transit facilities and the ownership and operation thereof.

(8) The levy and administration of local taxes authorized by the legislature and of assessments for local improvements, which in the case of county, town or village local laws relating to local non-property taxes shall be consistent with laws enacted by the legislature.

(9) The collection of local taxes authorized by the legislature and of assessments for local improvements, which in the case of county, town or village local laws shall be consistent with laws enacted by the legislature.

New York State Municipal Home Rule Law.

(9-a) The fixing, levy, collection and administration of local government rentals, charges, rates or fees, penalties and rates of interest thereon, liens on local property in connection therewith and charges thereon.

(10) The wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or subcontractor performing work, labor or services for it.

(11) The government, protection, order, conduct, safety, health and well-being of persons or property therein. This provision shall include but not be limited to the power to adopt local laws providing for the regulation or licensing of occupations or businesses provided, however, that:

(a) The exercise of such power by a town shall relate only to the area thereof outside the village or villages therein.

(b) Except in a case where and to the extent that a county is specifically authorized to regulate or license an occupation or business, the exercise of such power by a county shall relate only to the area thereof outside any city, village or area of any town outside the village or villages therein during such time as such city, village or town is regulating or licensing the occupation or business in question.

(12) The powers granted to it in the statute of local governments.

(13) The apportionment of its legislative body and, only in connection with such action taken pursuant to this subparagraph, the composition and membership of such

body, the terms of office of members thereof, the units of local government or other areas from which representatives are to be chosen and the voting powers of individual members of such legislative body. The power granted by this subparagraph shall be in addition to and not in substitution for any other power and the provisions of this subparagraph shall apply only to local governments which adopt a plan of apportionment thereunder.

(a.) A plan of apportionment adopted under this subparagraph shall comply with the following standards, which shall have priority in the order herein set forth, to the extent applicable:

(i.) The plan shall provide substantially equal weight for all the voters of that local government in the allocation of representation in the local legislative body.

(ii.) In such plan adopted by a county, no town except a town having more than one hundred and ten per cent of a full ratio for each representative, shall be divided in the formation of representation areas. Adjacent representation areas in the same town or city shall not contain a greater excess in population than five per cent of a full ratio for each representative.

(iii.) The plan shall provide substantially fair and effective representation for the people of the local government as organized in political parties.

(iv.) Representation areas shall be of convenient and contiguous territory in as compact form as practicable.

(b.) A plan of apportionment adopted by a county under this subparagraph may provide that mayors of cities

or villages, supervisors of towns or members of the legislative bodies of cities, towns, or villages, who reside in the county shall be eligible to be elected as members of the county legislative body.

(c.) As used in this subparagraph the term "population" shall mean residents, citizens, or registered voters. A population base for such a plan of apportionment shall utilize the latest statistical information obtainable from an official enumeration done at the same time for all the residents, citizens, or registered voters of the local government. Such a plan may allocate, by extrapolation or any other rational method, such latest statistical information to representation areas or units of local government, provided that any plan containing such an allocation shall have annexed thereto as an appendix, a detailed explanation of the allocation.

(d.) Where a public hearing on a local law proposed to be adopted under this subparagraph is required, by subdivision five of section twenty of this chapter, to be held only before an elective chief executive officer, the legislative body shall not adopt such proposed local law until after a public hearing shall have been held thereon before it, on notice as provided in such subdivision five, in which event no public hearing thereon before such chief executive officer shall be required.

(e) a local law proposed to be adopted under this subparagraph shall be subject to referendum only in the manner provided by paragraph j of subdivision two of section twenty-four of this chapter, except that such local law shall be subject to a mandatory referendum in any county in which a provision of law requires a mandatory referendum

if a local law proposes a change in the form or composition of the elective governing body of the county. The local law may be so structured as to permit separate submission of the principle elements (such as, multiple office holding as in clause (b) above, the use of multiple member or floterial districts in portions of the local government, and so forth) of the plan and also may provide alternatives in the event one or more of these separate submissions is rejected by the electorate.

(f.) Notwithstanding any inconsistent provisions of any general or special law, or any local law, ordinance, resolution or city or county charter heretofore or hereafter adopted, no local government may restructure its local legislative body (pursuant to provision of this chapter or any other provision of law) more than once in each decade commencing with the year nineteen hundred seventy; provided, however, that this prohibition shall not prevent the periodic adjustment of the weight of the votes of representatives on the basis of current census, voter, or other valid information where an existing plan distributes the votes of representatives on such a basis.

b. A county:

(1) The adoption, amendment or repeal of a county charter pursuant to article four of this chapter in addition to its powers under this article.

(2) The establishment of a county tax department headed by a director appointed by and serving at the pleasure of the board of supervisors, which director shall, subject to authorization of such board (a) employ necessary employees, (b) advise with and assist all assessors,

collectors and receivers of taxes of the various tax districts within the county in the discharge of their duties, (c) assist in the preparation of equalization rates with the various tax districts within the county, (d) assist in the disposition and sale of real property acquired by the county as the result of enforcement of unpaid taxes, and (e) perform such other duties as shall be prescribed by such board.

(3) The assignment to and the performance by the chairman of the board of supervisors of specified administrative functions, powers and duties on behalf of such board, with provision for periodic reports to such board, and with further provision that such local law shall not divest board of such functions, powers and duties.

(4) The creation of an office of administrative assistant to the chairman of the board of supervisors and assignment to and performance by such an assistant, under the general supervision of such chairman, of specified administrative functions, powers and duties on behalf of such board, with provision for periodic reports to such board, and with further provision that such local law shall not divest such board of such functions, powers and duties.

(5) The compensation to be paid from county funds to public officers or employees who are not officers or employees of the county other than members of the judiciary.

(6) The method for the correction of manifest clerical or other errors or omissions in assessment rolls or returns thereof as authorized by sections five hundred fifty-four and five hundred fifty-six of the real property tax law, subject to review by the courts as provided by law.

(7) The protection or preservation of game, game birds, fish or shell fish on county-owned lands.

(8) The control of floods or the conservation of soil.

(9) The reforestation of lands owned by the county.

(10) The eradication or prevention of bovine tuberculosis or other infectious or communicable diseases affecting animals or fowls.

(11) The regulation or prohibition of the dumping of garbage, rubbish, ashes or other waste material in or adjacent to creeks or streams in watershed areas improved under any flood control or soil erosion program.

c. A city:

(1) The revision of its charter or the adoption of a new charter by local law adopted by its legislative body pursuant to the provisions of this chapter and subject to the procedure prescribed by this chapter or by local law adopted pursuant to article four of this chapter.

(2) The preparation, making, confirmation and correction of assessments of real property and the review of such assessments subject to further review by the courts as provided by law.

(3) The authorization, making, confirmation and correction of benefit assessments for local improvements.

d. A town:

(1) The preparation, making, confirmation and correction of assessments of real property and the review of such assessments subject to further review by the courts as provided by law, consistent with laws enacted by the legislature.

(2) The authorization, making, confirmation and correction of benefit assessments for local improvements, consistent with laws enacted by the legislature.

e. A village:

(1) The preparation, making, confirmation and correction of assessments of real property and the review of such assessments subject to further review by the courts as provided by law, consistent with laws enacted by the legislature.

(2) The authorization, making confirmation and correction of benefit assessments for local improvements.

(3) The amendment or supersession in its application to it, of any provision of the village law relating to the property, affairs or government of the village or to other matters in relation to which and to the extent to which it is authorized to adopt local laws by this section, notwithstanding that such provision is a general law, unless the legislature expressly shall have prohibited the adoption of such a local law.

2. Every local government also shall have power to adopt and amend local laws where and to the extent that its legislative body has power to act by ordinance, resolution, rule or regulation.

3. a. A grant of a specific power by this section to one or more local goverments shall not operate to restrict the meaning of a general grant of power by this section to the same or any other local government or to exclude other powers comprehended in such general grant.

b. The enumeration of powers in this section is not intended to imply that any of such powers is not included

within the power of a local government to adopt and amend local laws in relation to its property, affairs and government.

4. In the exercise of its powers to adopt and amend local laws, the legislative body of a local government shall have power:

(a) To delegate to any officer or agency of such local government the power to adopt resolutions or to promulgate rules and regulations for carrying into effect or fully administering the provisions of any local law.

(b) To provide for the enforcement of local laws by legal or equitable proceedings which are or may be provided or authorized by law, to prescribe that violations thereof shall constitute misdemeanors, offenses or infractions and to provide for the punishment of violations thereof by civil penalty, fine, forfeiture or imprisonment, or by two or more of such punishments, provided, however, that a local law adopted pursuant to subdivision two of this section shall provide only for such enforcement or punishment as could be prescribed if the action of the legislative body were taken by ordinance, resolution, rule or regulation, as the case may be.

(c) To enact as local law the provisions of any existing charter, general law or special law, theretofore enacted, conferring a right, power or authority, or imposing a duty or obligation, on such local government, whether or not the same relate to its property, affairs or government. Any such provision of law so reenacted shall thereafter be subject to be superseded by local law only to the same extent and in the same manner as if the same had not been so re-enacted.

(d) In establishing the office of the head of a department of its government, to provide that such an office shall be in the unclassified service of the civil service and, in establishing the offices of one or more deputies to the head of a department of its government with power to act generally for and in place of their principals, to provide that the positions of such deputies shall be in the exempt class of the civil service.

5. Except in the case of a transfer of functions pursuant to the constitution or under an alternative form of county government, a local government shall not have power to adopt local laws which impair the powers of any other public corporation. As amended L.1964, c. 78, §§ 3-5, eff. March 2, retroactive to Jan. 1, 1964.

§ 11. Restrictions on the Adoption of Local Laws

1. Notwithstanding any provision of this chapter, the legislative body shall not be deemed authorized by this chapter to adopt a local law which supersedes a state statute, if such local law:

a. Removes or raises any limitation of law on the amount in which the local government may become indebted, or on the amount which may be raised in any one fiscal year by tax for any or all purposes of such local government provided, however, that if the total bonded indebtedness of any city operating under the provisions of the second class cities law is evidenced only by serial bonds payable in annual installments, any such city may adopt a local law which shall provide that the provisions of section seventy-

two of the second class cities law shall not be operative or applicable as to such city.

b. Removes a restriction of law relating to the issuance of bonds or other evidences of indebtedness.

c. Applies to or affects the maintenance, support or administration of the educational system in such local government, or a teachers' pension or retirement system therein.

d. Except in the case of an alternative form of county government, changes the number or term of office of the members of the county board of supervisors chosen as such in a city or town.

e. Applies to or affects the courts as required or provided by article six of the constitution.

f. Applies to or affects any provision of paragraph (c) of subdivision one of section one hundred ninety-one of the election law, the labor law, sections two, three and four of a chapter of the laws of nineteen hundred sixty-eight, entitled "An act in relation to the maximum hours of labor of certain municipal and fire district firemen and the holidays of firemen and policemen, repealing certain sections of the labor law relating thereto, and to amend the municipal home rule law, in relation thereto," the volunteer firemen's benefit law, or the workmen's compensation law or changes any provision of the multiple residence law or the multiple dwelling law, except that in a city of one million persons or more, the provisions of local law for the enforcement of the housing code which is not less restrictive than the multiple dwelling law may be applied in the enforcement of the multiple dwelling law.

g. Applies to or affects powers of the state comptroller in relation to auditing or examining municipal accounts or prescribing forms of municipal accounting or in relation to approval or disapproval of establishment or extension of fire districts or special districts.

h. Applies to or affects any provision of law providing for regulation or elimination of railroad crossings at grade or terminal facilities within the local government.

i. Relates to the judicial review of dismissals from the civil service or, in the case of a county, changes a provision of law relating to the membership of its civil service commission or to the terms of office of the members of such commission or of the personnel officer administering the provisions of the civil service law.

j. In the case of a city, transfers to abutting property owners its liability for failure to maintain its sidewalks and gutters in a reasonably safe condition.

2. Notwithstanding any provision of this chapter, the legislative body of a county, city or village shall not be authorized by this chapter to adopt any local law which:

a. Amends the charter of the county, city or village, as the case may be, contrary to any provisions of such charter regulating its own amendment. This provision shall not abridge the right of the people of a county, city or village to amend their charter or approve a proposed new charter, where such amendment or proposed new charter is subject to a mandatory referendum.

b. The legislative body is by provision of the charter prohibited to adopt.

3. Notwithstanding any provision of this chapter, any local law adopted by a town board shall be effective and operative only in that portion of such town outside of any village or villages therein except in a case where the power of such town board extends to and includes the area of the town within any such village or villages.

ARTICLE 4—POWERS OF COUNTIES AND CITIES TO ADOPT CHARTERS

Part

1. The county charter law.
2. City charter revision.

PART 1. THE COUNTY CHARTER LAW

Sec.

30. Short title.
31. Application.
32. Definitions.
33. Power to adopt, amend and repeal county charters.
34. Limitations and restrictions.
35. Legislative intent; construction.

§ 30. Short Title

This part shall be known and may be cited and referred to as the "county charter law."

§ 31. Application

This part shall apply to each county of the state except a county in the city of New York.

New York State Municipal Home Rule Law.

§ 32. Definitions

For the purposes of this part, the following terms shall mean and include:

1. "Board of supervisors." The board of supervisors or other elective governing body of a county.

2. "Charter law." A local law providing, amending or repealing a county charter.

3. "County." A county of the state except a county in the city of New York.

4. "County charter." An alternative form of county government provided in accordance with the constitution by act of the legislature or local law.

5. "Local law." A local law adopted by the board of supervisors of a county pursuant to this chapter or other statute generally empowering the county to adopt local laws.

§ 33. Power to Adopt, Amend and Repeal County Charters

1. Subject to restrictions in the constitution, in this article or in any other applicable law, the board of supervisors of any county as defined in section thirty-two of this article and including but not limited to a county which has heretofore adopted a charter enacted by the legislature shall have power to prepare, adopt, amend or repeal a county charter.

2. A county charter shall set forth the structure of the county government and the manner in which it is to function. Such charter may provide for the appointment of

any county officers or their selection by any method of nomination and election, provided that there shall be an elective board of supervisors, the members of which shall be deemed county officers, which shall determine county policies and exercise such other functions as may be assigned to it.

3. Such a county charter shall provide for:

a. The exercise by the board of supervisors of the powers of local legislation and appropriation of the county.

b. The agencies or officers responsible for the performance of the functions, powers and duties of the county and of any agencies or officers thereof and the manner of election or appointment, terms of office, if any, and removal of such officers.

c. The equalization of real property taxes consistent with standards prescribed by the legislature.

4. Such a county charter may:

a. Assign executive or administrative functions, powers and duties to elective or appointive officers.

b. Empower an executive officer elected on a county-wide basis to veto actions of the board of supervisors, with provision for overriding of such vetoes by a specified percentage or percentages of votes of such board.

c. In accordance with subdivision (h) of section one of article nine of the constitution, provide for the transfer of one or more functions or duties of the county or of the cities, towns, villages, districts or other units of government wholly contained in such county to each other or

when authorized by the legislature to the state, or for the abolition of one or more offices, departments or agencies of such units of government when all of their functions or duties are so transferred.

d. Provide for an administrative code which shall set forth the details of administration of the county government in harmony with the provisions of the county charter and may contain revisions, simplifications, consolidations, codifications and restatements of special laws, local laws, ordinances, resolutions, rules and regulations consistent with the county charter.

e. Provide for the termination of the terms of office of existing officers.

5. The board of supervisors by resolution may provide that a draft of a proposed county charter, or of an amendment or repeal thereof, shall be prepared under its supervision, the supervision of an officer or committee of the board, or by a charter commission appointed by or pursuant to such resolution. The county attorney or other legal advisor shall provide such assistance and cooperation as shall be required of him and for such purpose shall have power to employ or retain special counsel and technical advisors and assistants within appropriations made available therefor.

6. Where a petition is filed with the clerk of the board of supervisors signed by electors of the county equal in number to at least ten per centum of the whole number of votes cast in the county for governor at the last gubernatorial election, asking that a charter commission be created by the board of supervisors and be composed and

appointed as provided by the board of supervisors, and where the board of supervisors does not on its own motion create and appoint or provide for the appointment of such a charter commission within three months after such filing, the board of supervisors shall cause a proposition to be submitted to the electors of the county at the next general election occurring not less than five months after such filing, on the question of whether such a charter commission should be so established and appointed. The provisions of subdivision eight of this section shall apply to the preparation of the form of such proposition and its submission at such general election. If such proposition receives a majority of the votes cast thereon in the county at such general election, the board of supervisors within two months after such general election shall provide for the creation of such commission and its members shall be appointed within such two-month period. The provisions of subdivision five hereof, so far as applicable, shall apply to such charter commission.

7. A charter law

(a) providing a county charter, or

(b) proposing an amendment or repeal of one or more provisions thereof which would have the effect of transferring a function or duty of the county, or of a city, town, village, district or other unit of local government wholly contained in the county, shall conform to and be subject to consideration by the board of supervisors in accordance with the provisions of this chapter generally applicable to the form of and action on proposed local laws by the board of supervisors. If a county charter, or a charter law as described in this subdivision, is adopted by the

board of supervisors, it shall not become operative unless and until it is approved at a general election or, in the counties of Dutchess and Orange, at a special election, held in the county by receiving a majority of the total votes cast thereon (a) in the area of the county outside of cities and (b) in the area of the cities of the county, if any, considered as one unit, and if it provides for the transfer of any function or duty to or from any village or for the abolition of any office, department, agency or unit of government of a village wholly contained in the county, it shall not take effect unless it shall also receive a majority of all the votes cast thereon in all the villages so affected considered as one unit. Such a county charter or charter law shall provide for its submission to the electors of the county at the next general election or, in the counties of Dutchess, Orange and Chautauqua at a special election, occurring not less than sixty days after the adoption thereof by the board of supervisors. Such a county charter or charter law may provide for the separate submission to the electors at such election of one or more variations of the provisions of such county charter. Any such variation may include, but shall not be limited to, proposed transfers of functions of local government to other units of local government or a class or classes thereof.

8. The form of each proposition submitted to the electors of a county pursuant hereto shall be prepared by the clerk of the board of supervisors with the advice of the county attorney or other principal legal advisor. They also shall prepare a brief abstract of the county charter or charter law so submitted. The form and abstract shall be transmitted to the board of elections of the county. The board of elections, at least twenty days before the elec-

tion, shall send two or more copies thereof to the clerk of each city, town and village in the county to be made a public record in his office and shall cause a sufficient number of copies to be printed and made available to the electors at the time of registration or otherwise. In addition, such board of elections shall cause a sufficient number of copies to be delivered with the other election supplies and distributed to the electors at the election. The board of elections shall cause each such proposition to be submitted to the electors of the county in the manner provided in the election law and, so far as applicable, in subdivision two of section one hundred two of the county law. Expenses incurred in connection with the submission of any proposition under this article shall be a charge against the county.

9. If two or more propositions having conflicting provisions receive the majorities required for adoption under this section at the same election, the proposition involved in each such conflict which receives the largest affirmative vote shall prevail to the extent of such conflict; but in all other respects such proposition shall be deemed adopted. Where a proposition submitted to the electors of a county under the provisions of this article receives the majority or majorities required for adoption, it shall become operative as prescribed therein, subject to any conditions prescribed therein. As amended L. 1967, c. 3; L. 1968, c. 310, eff. May 21, 1968; L. 1968, c. 361, eff. May 31, 1968.

§ 34. LIMITATIONS AND RESTRICTIONS

1. The legislature hereby imposes the following limitations on the powers of counties to prepare, adopt and amend county charters and charter laws.

New York State Municipal Home Rule Law.

2. Except in accordance with or consistent with laws enacted by the legislature, a county charter or charter law shall not contain provisions relating to:

a. Taxation of the property of the state or of any of its agencies;

b. Exemptions from taxation;

c. Assistance by the state to any unit of local government;

d. The division of the county into two or more counties or the creation, enlargement, diminution or abolition of any city, town, village or school district;

e. The compensation of members of the judiciary fixed by the legislature;

f. The composition, functions, powers, duties or jurisdiction of a court or of the officers thereof, except that functions, powers or duties assigned to units of local government or agencies or officers thereof outside the judicial system may be transferred to other units of local government, agencies or officers as authorized by this article.

3. Except in accordance with provisions of this chapter or with other laws enacted by the legislature, a county charter or charter law shall not supersede any general or special law enacted by the legislature:

a. Which relates to the imposition, judicial review or distribution of the proceeds of taxes or benefit assessments;

b. Insofar as it relates to the educational system in the county or to school districts therein, except that functions,

powers or duties assigned to units of local government or to agencies or officers thereof outside the educational system may be transferred to other units of local government, agencies or officers as authorized by this article;

c. Which requires that specified functions of government be performed by or financed by units of local government, except that any of such functions may be transferred to other units of local government, agencies or officers as authorized by this article;

d. Insofar as it relates to a function, power or duty of the state or of any officer or agency thereof which is financed directly by the state;

e. Insofar as it relates to the commencement or prosecution of actions or proceedings against the county;

f. Insofar as it relates to a public benefit corporation;

g. In this chapter or in the civil service law, condemnation law, conservation law, election law, executive law, judiciary law, labor law, local finance law, multiple dwelling law, multiple residence law, public authorities law, public housing law, public service law, railroad law, retirement and social security law, state finance law, volunteer firemen's benefit law, or workmen's compensation law.

4. After the adoption of a county charter by a county, no law enacted by the legislature pursuant to paragraph two of subdivision (h) of section one of article nine of the constitution which does not apply alike to all counties outside the city of New York, and no charter law or local law, which in its application to such county abolishes or creates an elective county office, changes the voting or veto power of or the method of removing an elective county offi-

cer during his term of office, abolishes, curtails or transfers to another county officer or agency any power of an elective county officer, or changes the form or composition of the board of supervisors of such county, shall become effective in such county until at least sixty days after its final enactment. If (a) the legislature in enacting such a law shall provide that it shall be submitted to the qualified electors of the county for their approval, or (b) the board of supervisors on its own motion, in the manner provided by subdivision four of section one hundred one of the county law, shall provide that such a charter law or local law adopted by it shall be submitted to the qualified electors of the county for their approval, or (c) within such sixty days electors of the county, duly registered to vote therein either for the last preceding or the next following general election, in number equal to at least five per centum of the total number of votes cast in the county for governor at the last gubernatorial election, shall file a petition with the county clerk or corresponding officer of the county protesting against such law, charter law or local law, it shall become effective in such county only if approved by the electors thereof at the next ensuing general election held at least sixty days thereafter, subject to the conditions provided in subdivision seven of section thirty-three of this chapter for the adoption of a county charter when voted on by the electors of a county.

§ 35. LEGISLATIVE INTENT; CONSTRUCTION

1. It is the intention of the legislature by this county charter law to provide for carrying into effect the provisions of paragraph (h) of subdivision one of article nine of the constitution and, pursuant to the direction contained

therein, to empower counties to prepare, adopt and amend county charters by local legislative action, subject to limitations imposed herein.

2. It is not the intention of the legislature hereby to (a) abolish or curtail any powers or rights heretofore conferred upon or delegated to a county or counties or to any of the units of government therein or to any board, commission, body or officer thereof, or (b) adversely to affect the power of a county to adopt, amend or repeal county charters, county laws or local laws pursuant to any other authorization of the legislature, unless a contrary intention is clearly manifested from the express provisions of this county charter law or by necessary intendment therefrom.

3. This county charter law shall be construed liberally. The powers herein granted shall be in addition to any other powers granted to counties by any other provisions of general or special laws, including but not limited to charters, administrative codes, special acts or local laws. A permissive procedure authorized hereby shall not be deemed to be exclusive or to prohibit the use of any other procedure authorized by any general or special act of the legislature, charter, administrative code or local law lawfully adopted and still in effect.

4. All existing state, county, local and other laws or enactments, including charters, administrative codes and special acts having the force of law shall continue in force until lawfully amended, modified, superseded or repealed.

5. If any provision of the county charter law is not clear or requires elaboration in its application to the county, the

board of supervisors may interpret such provision in a local law not inconsistent with the provisions hereof. Where any question arises concerning the transition to a charter law which is not provided for herein, the board of supervisors may provide for such transition by a local law not inconsistent with the provisions hereof.

6. If any provision of this county charter law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the particular provision directly involved in the controversy in which such judgment is rendered.

New York State Election Law

§ 64. CREATION AND ALTERATION OF ELECTION DISTRICTS. 1. In the cities of New York and Buffalo, and cities and towns of the counties of Monroe, Nassau and Suffolk, respectively, the creation or the consolidation, division or other alteration of election districts shall be done by the board of elections, and in any other city or in any other town by the common council or town board. Every town or ward, not subdivided into election districts, shall be an election district. Each assembly district wholly in the city of New York, and that portion of an assembly district partially in the city of New York containing therein more than seven hundred voters, and elsewhere each town or ward having more than seven hundred voters, shall be divided into election districts, provided that if two machines are to be used at the polling

place, a town or ward having not more than one thousand voters need not be divided. Any town or ward may be so divided when the convenience of voters will be promoted thereby.

[Amended by chap. 976, Laws of 1964.]

2. Any creation, consolidation, division or alteration of election districts in any year shall be made on or before July first, to take effect on the ensuing first day of October, except that when required by the creation or alteration of a political subdivision, other than an election district, in which candidates are to be voted for at the fall primaries, it shall take effect immediately. In case of excessive registration in any year, an election district may be divided to take effect before the general election.

3. Each election district shall be compact in form. It shall not contain portions of two wards, towns, counties, assembly or congressional districts. Except as otherwise provided in a local or special act, it shall not be partly within and partly without a city. It shall not be partly within and partly without a village having five thousand or more inhabitants except with the written approval of the board of elections, filed with the town clerk. As nearly as may be, except as above provided, and except in the city of New York, an election district shall contain six hundred voters where one voting machine is used and nine hundred voters where two voting machines are used, but it may contain a less number where the convenience of the voters will be promoted thereby, or where that is necessary to enable all the voters to vote for the same offices.

4. An election district in the city of New York shall use one voting machine where there are seven hundred fifty

voters or less, and two voting machines where there are more than seven hundred fifty voters, except that in any district where there are more than seven hundred fifty voters but less than eight hundred voters, the board of elections shall determine the number of machines to be used in such district.

5. When necessary, in order to comply with this section, the election districts into which a town, ward or assembly district is or may be divided may be consolidated, divided or otherwise altered, or new districts may be created, or a town or ward so divided may be made one election district, but the election districts of a town, ward or assembly district shall not be altered or new election districts created because of excessive number of voters in any such election district until such number shall exceed by at least fifty the number above specified, except that in any year following an election year in which the voters may vote for the office of presidential electors, no additional election districts need be created.

6. In the event the common council or the town board fails to create, consolidate, divide or alter election districts by July second, when required, pursuant to the provisions of this section, the board of elections of the county wherein such common council or town board is located, shall do the same.

§ 65. MAPS OF CONGRESSIONAL, SENATORIAL, ASSEMBLY AND ELECTION DISTRICTS. 1. The secretary of state, at the expense of the state, shall publish a map showing the county or counties contained in each of the congressional districts of the state; a map showing the county or coun-

ties in each of the senatorial districts of the state and a map showing the county or counties contained in each of the assembly districts of the state.

2. Where a portion of a county is contained in any congressional, senatorial or assembly district, he shall publish a map showing the portion of such county contained in each such respective district. Such map or maps shall show the extreme boundaries of the portion of the county so contained, as described by the street boundary and shall have printed thereon the names of the streets or public ways bounding the district; provided however, that where the extreme boundary consists of the boundary line of any city, town or village, it shall be sufficient to so indicate, without showing or naming indivdual streets or public ways.

3. He shall also publish three individual maps of each borough of the city of New York, one of which shall show all of the congressional districts or parts thereof contained in such borough; one of which shall show all of the senatorial districts or parts thereof contained in such borough and one of which shall show all of the assembly districts or parts thereof contained in such borough. Each such map shall show the extreme boundaries of the districts to which it refers, as described in the street boundary and shall have printed thereon the names of the streets or public way bounding the district.

4. All such maps shall be to scale. Pertinent copies of such maps shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office of every

board of elections, and in the city of New York, in the board of elections and each branch office, if any. Surplus copies, if any, may be sold at cost and the proceeds remitted to the secretary of state. Whenever the boundaries of any congressional, senatorial, or assembly district are altered after the first publication of such maps, the secretary of state shall publish revised copies of those maps affected by such boundary alteration and make the distribution as required in this subdivision.

5. A map or separate maps of uniform scale of election districts within a town or ward, or, in the city of New York, within an assembly district, wholly within such city or within that portion of any assembly district within such city, shall be made by the board or body creating or altering the districts so that the map or maps on file at any time will show the existing election districts in such town, ward, assembly district, or the appropriate portion of such assembly district.

In a city, street corner numbers of the block or blocks defining the extreme boundaries of each election district shall be printed on the map or maps, within or outside the block line or lines, so as to show plainly the highest and lowest street numbers within the election district of every street bounding the district. Copies of such maps or descriptions shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office and each branch office if any of the board of elections. Surplus copies, if any, of maps of election districts in a city or town may be sold at cost and the proceeds paid to the county, city or town which incurred the expense of preparing the maps.

New York State Election Law.

6. In a city, immediately before the first day of registration in each year, the board or body authorized to create or alter election districts shall cause copies of such map or maps to be posted in such places in the several wards or assembly districts, or appropriate portions of assembly districts as, in its judgment will be best suited for informing the voters interested therein, and shall furnish to the inspectors of election in each election district, on the first day of registration in each year, election day, primary election day, and special election days, if any, a map or maps showing such election district and at least the adjacent election districts and a list of the registration and polling places in the ward or assembly district. In the week preceding a primary, in any year, the board of elections, in its discretion, may cause to be posted, in a city, copies of the map or maps showing the election districts in which the primary is to be held.

7. In a town, after the creation or alteration of any election district therein, the board creating or altering such district shall furnish to the inspectors of election in each election district, on the first day of registration next occurring, a map or description showing such election district and also immediately before the ensuing general election shall cause copies of the map or maps, or description or descriptions, of the election districts in the town to be posted in such places as, in its judgment, will be best suited for informing the voters interested therein.

8. In order to facilitate the publication of such maps as he is required by this section to publish, there shall be made available to the secretary of state at his request by

every board of elections, the maps or copies thereof, described in paragraph five of this section.

§ 136. RULES CONCERNING DESIGNATING PETITIONS.

5. A signature made earlier than twelve weeks before the primary election shall not be counted.

§ 191. DATES OF PRIMARY ELECTIONS AND GENERAL ELECTIONS; TIME OF OPENING AND CLOSING POLLS. 1. (a) A primary election, to be known as the spring primary shall be held in the year nineteen hundred sixty-six and annually thereafter on the third Tuesday in June before the general election. All of the provisions of law relating to the spring and fall primary elections shall apply to the spring primary election provided for by this paragraph as hereby amended. All references to the spring and fall primary elections contained in this chapter shall be construed as references, whenever appropriate and applicable, to such spring primary election.

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HAMILTON COUNTY

	1915	1920	1925	1930	1940	1950	1960
Arietta	***	***	***	***	***	***	235
Benson	***	***	***	***	***	***	87
Hope	***	***	***	***	***	***	234
Indian Lake	***	***	***	***	***	***	1,186
Inlet	***	***	***	***	***	***	307
Lake Pleasant	***	***	***	***	***	***	718
Long Lake	***	***	***	***	***	***	896
Morehouse	***	***	***	***	***	***	65
Wells	***	***	***	***	***	***	539
Totals	***	***	***	***	***	***	4,267

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ROCKLAND COUNTY

	1915	1920	1925	1930	1940	1950	1960
Clarkstown	***	***	***	***	***	***	33,196
Haverstraw	***	***	***	***	***	***	16,632
Orangetown	***	***	***	***	***	***	43,172
Ramapo	***	***	***	***	***	***	35,064
Stony Point	***	***	***	***	***	***	8,739
Totals	***	***	***	***	***	***	136,803

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COUNTY RECAPITULATION

POPULATION

Counties	1915	1920	1925	1930	1940	1950	1960 final
Albany	***	***	***	***	***	***	272,926
Allegany	***	***	***	***	***	***	43,978
Bronx	***	***	***	***	***	***	1,424,815
Broome	***	***	***	***	***	***	212,661
Cattaraugus	***	***	***	***	***	***	80,187
Cayuga	***	***	***	***	***	***	73,942
Chautauqua	***	***	***	***	***	***	145,377
Chemung	***	***	***	***	***	***	98,706
Chenango	***	***	***	***	***	***	43,243
Clinton	***	***	***	***	***	***	72,722
Columbia	***	***	***	***	***	***	47,322
Cortland	***	***	***	***	***	***	41,113
Delaware	***	***	***	***	***	***	43,540
Dutchess	***	***	***	***	***	***	176,008
Erie	***	***	***	***	***	***	1,064,688
Essex	***	***	***	***	***	***	35,300
Franklin	***	***	***	***	***	***	44,742
Fulton	***	***	***	***	***	***	51,304
Genesee	***	***	***	***	***	***	53,994
Greene	***	***	***	***	***	***	31,372
Hamilton	***	***	***	***	***	***	4,267
Herkimer	***	***	***	***	***	***	66,370
Jefferson	***	***	***	***	***	***	87,835
Kings	***	***	***	***	***	***	2,627,319
Lewis	***	***	***	***	***	***	23,249
Livingston	***	***	***	***	***	***	44,053
Madison	***	***	***	***	***	***	54,635
Monroe	***	***	***	***	***	***	586,387
Montgomery	***	***	***	***	***	***	57,240
Nassau	***	***	***	***	***	***	1,300,171
New York	***	***	***	***	***	***	1,698,281
Niagara	***	***	***	***	***	***	242,269
Oneida	***	***	***	***	***	***	264,401

Counties	1915	1920	1925	1930	1940	1950	1960 final
Onondaga	•••	•••	•••	•••	•••	•••	423,028
Ontario	•••	•••	•••	•••	•••	•••	68,070
Orange	•••	•••	•••	•••	•••	•••	183,734
Orleans	•••	•••	•••	•••	•••	•••	34,159
Oswego	•••	•••	•••	•••	•••	•••	86,118
Otsego	•••	•••	•••	•••	•••	•••	51,942
Putnam	•••	•••	•••	•••	•••	•••	31,722
Queens	•••	•••	•••	•••	•••	•••	1,809,578
Rensselaer	•••	•••	•••	•••	•••	•••	142,585
Richmond	•••	•••	•••	•••	•••	•••	221,991
Rockland	•••	•••	•••	•••	•••	•••	136,803
St. Law'ce	•••	•••	•••	•••	•••	•••	111,239
Saratoga	•••	•••	•••	•••	•••	•••	89,096
Schenectady	•••	•••	•••	•••	•••	•••	152,896
Schoharie	•••	•••	•••	•••	•••	•••	22,616
Schuyler	•••	•••	•••	•••	•••	•••	15,044
Seneca	•••	•••	•••	•••	•••	•••	31,984
Steuben	•••	•••	•••	•••	•••	•••	97,691
Suffolk	•••	•••	•••	•••	•••	•••	666,784
Sullivan	•••	•••	•••	•••	•••	•••	45,272
Tioga	•••	•••	•••	•••	•••	•••	37,802
Tompkins	•••	•••	•••	•••	•••	•••	66,164
Ulster	•••	•••	•••	•••	•••	•••	118,804
Warren	•••	•••	•••	•••	•••	•••	44,002
Washington	•••	•••	•••	•••	•••	•••	48,476
Wayne	•••	•••	•••	•••	•••	•••	67,989
W'chester	•••	•••	•••	•••	•••	•••	808,891
Wyoming	•••	•••	•••	•••	•••	•••	34,793
Yates	•••	•••	•••	•••	•••	•••	18,614
Totals	•••	•••	•••	•••	•••	•••	16,782,304